

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Case No. 23-CR-9 (JWB/JFD)

Plaintiff,

v.

ORDER

DEMETRIUS STANFORD LAMONT
NOBLE,

Defendant.

This matter is before the Court on Mr. Noble's pretrial motions for disclosure of evidence pursuant to Federal Rule of Evidence 404(b), retention of rough notes, and discovery under Federal Rule of Criminal Procedure 16. (Dkt. Nos. 22–24.) Neither party requested oral argument nor demonstrated a need for an evidentiary hearing. In fact, the United States did not respond to the motions. (*See* Second Am. Pretrial Scheduling Order 5, Dkt. No. 19.) The Court took the motions under advisement without argument. (Dkt. No. 25.)

Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Mr. Noble's motion requesting disclosure of Rule 404(b) evidence no later than 30 days¹ before trial (Dkt. No. 22) is **DENIED AS MOOT**. A motion is not required

¹ In the motion, the sentence immediately following the request for disclosure no later than 28 days before trial reads: "[t]hirty days will allow Mr. Noble enough time to investigate the alleged bad acts and raise the appropriate objections prior to any pre-trial conference."

for a defendant to obtain Rule 404(b) notice and information. Rule 404(b) provides that “upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, or during trial if the court excuses pretrial notice on good cause shown, of the general nature of any such evidence it intends to introduce at trial.” Fed. R. Evid. 404(b). If Mr. Noble requests Rule 404(b) information from the United States, the United States must comply with Rule 404(b) without a court order, and no later than 30 days before trial.

2. Mr. Noble’s Motion to Retain Rough Notes (Dkt. No. 23) is **DENIED AS MOOT**, given this Court’s prior order granting the same relief. (Second Am. Pretrial Scheduling Order 3).
3. Mr. Noble’s Motion for Discovery and Inspection (Dkt. No. 24) is **DENIED AS MOOT**. (See Second Am. Pretrial Scheduling Order.) A motion is not required for discovery under Federal Rule of Criminal Procedure 16. Rule 16(a) requires the government to provide discovery upon a defendant’s request, not upon a motion or upon a court’s order. Rule 16(b) likewise requires the defendant to provide reciprocal discovery if the defendant makes discovery requests and the government complies with those requests. The Court expects the parties to provide discovery promptly and without a court order, in compliance with Local Rule 12.1(a) and this Court’s Second Amended Pretrial Scheduling Order.

(Def.’s Mot. 2, Dkt. No. 22.) The Court assumes this discrepancy was inadvertent and construes the motion as one requesting 30 days’ notice.

Date: June 20, 2019

s/ John F. Docherty

JOHN F. DOCHERTY

United States Magistrate Judge